

Alexander Burke

From: Delnero, Daniel
Sent: Thursday, September 21, 2017 11:57 AM
To: 'Alexander Burke'
Cc: Justin Holcombe; Dan Marovitch; Jim Feagle; McKenna, Daniel J.; Morris, Pamela
Subject: RE: Activity in Case 1:17-cv-02704-ELR Hines v. FDS Bank et al Motion to Compel

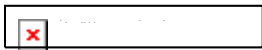
Alex,

We have not had a 26F and discovery has not opened, so your broad discovery request, which go well beyond arbitrability, are premature. Even if they were limited to arbitrability, Defendants disagree that Plaintiff is entitled to discovery because he has not disputed the proofs submitted to the Court or identified any other good faith basis to question arbitrability.

The documents submitted in connection with the motion to compel and provided to you previously clearly prove that this case must be compelled to individual arbitration. If you believe otherwise, you must oppose that motion and show therein a good faith factual basis to challenge the evidence submitted.

But as the record stands now, there does not appear to be a good-faith need for discovery.

Daniel L. Delnero



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From: Alexander Burke [mailto:aburke@burkelawllc.com]
Sent: Tuesday, September 19, 2017 5:36 PM
To: Alexander Burke
Cc: Delnero, Daniel (Atlanta); Justin Holcombe; Dan Marovitch; Jim Feagle
Subject: Re: Activity in Case 1:17-cv-02704-ELR Hines v. FDS Bank et al Motion to Compel

Daniel,

Following up on this request.

We also request that defendants please agree to stay briefing in the motion to compel arbitration until the discovery motion is decided.

Alex Burke

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On Sep 17, 2017, at 9:08 AM, Alexander Burke <ABurke@burkelawllc.com> wrote:

Daniel,

Plaintiff has reviewed the motion to compel discovery filed Friday afternoon by Defendants.

Before sending this case to arbitration, the Court must first resolve the question of whether a valid agreement to arbitrate has been formed through an evidentiary hearing, applying a summary judgment standard. See, e.g., *Magnolia Capital Advisors, Inc. v. Bear Stearns & Co.*, 272 F. App'x 782, 785 (11th Cir. 2008); *Three Valleys Mun. Water Dist. v. E.F. Hutton & Co.*, 925 F.2d 1136, 1141 (9th Cir. 1991).

Plaintiff therefore requests that Defendants please respond to the attached discovery requests relating to Defendants' arbitration motion.

Alex

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From: ganddb_efile_notice@gand.uscourts.gov [mailto:ganddb_efile_notice@gand.uscourts.gov]
Sent: Friday, September 15, 2017 1:17 PM
To: CourtMail@gand.uscourts.gov
Subject: Activity in Case 1:17-cv-02704-ELR Hines v. FDS Bank et al Motion to Compel

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

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U.S. District Court

Northern District of Georgia

Notice of Electronic Filing

The following transaction was entered by Delnero, Daniel on 9/15/2017 at 2:17 PM EDT and filed on 9/15/2017

Case Name: Hines v. FDS Bank et al
Case Number: [1:17-cv-02704-ELR](#)
Filer: Department Stores National Bank
FDS Bank
Document Number: [10](#)

Docket Text:

MOTION to Compel Arbitration with Brief In Support by Department Stores National Bank, FDS Bank. (Attachments: # (1) Exhibit A, # (2) Exhibit B, # (3) Exhibit C, # (4) Exhibit D - Part 1 of 2, # (5) Exhibit D - Part 2 of 2)(Delnero, Daniel)

1:17-cv-02704-ELR Notice has been electronically mailed to:

Alexander H. Burke ABurke@Burkelawllc.com, dmarovitch@burkelawllc.com,
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Kris Kelly Skaar kriskskaar@aol.com

1:17-cv-02704-ELR Notice has been delivered by other means to:

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1060868753 [Date=9/15/2017] [FileNumber=8757602-0
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Document description:Exhibit A

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1060868753 [Date=9/15/2017] [FileNumber=8757602-1
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Document description:Exhibit B

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1060868753 [Date=9/15/2017] [FileNumber=8757602-2]
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Document description:Exhibit C

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1060868753 [Date=9/15/2017] [FileNumber=8757602-3]
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Document description:Exhibit D - Part 1 of 2

Original filename:n/a

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Document description:Exhibit D - Part 2 of 2

Original filename:n/a

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<Hines v. DSNB Arbitration-Related Interrogatories 09.17.2017.pdf>

<Hines v. DSNB Arbitration-Related RFPs 09.17.2017.pdf>